

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

PAMILA ANN BIRD
aka PAMILA ANN WRIGHT BIRD
276 Carlyle Ct
Gilroy, CA 95020

Registered Nurse License No. 556783

Respondent

Case No. 2012-332

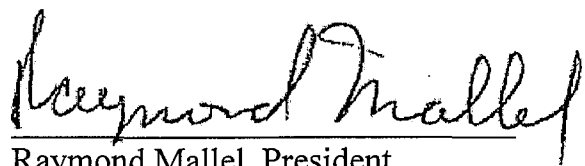
OAH No. 201120788

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 12, 2012.**

IT IS SO ORDERED **December 12, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-332

13 **PAMILA ANN BIRD A.K.A. PAMILA**
14 **ANN WRIGHT BIRD**
11357 Desert Trailways Lane
Blythe, CA 92225
Registered Nurse License No. RN 556783

OAH No. 201120788

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Kim M. Settles, Deputy Attorney General.

24 2. Pamela Ann Bird a.k.a. Pamela Ann Wright Bird (Respondent) is representing herself
25 in this proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about July 14, 1999, the Board of Registered Nursing issued Registered Nurse
27 License No. RN 556783 to Pamela Ann Bird a.k.a. Pamela Ann Wright Bird (Respondent). The
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1 Registered Nurse License was in full force and effect at all times relevant to the charges brought
2 in Accusation No. 2012-332 and will expire on July 31, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2012-332 was filed before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on or about
7 December 1, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 2012-332 is attached as exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 2012-332. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 her own expense; the right to confront and cross-examine the witnesses against her; the right to
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
17 compel the attendance of witnesses and the production of documents; the right to reconsideration
18 and court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 2012-332, agrees that cause exists for discipline and hereby surrenders her Registered Nurse
25 License No. RN 556783 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue
27 an order accepting the surrender of her Registered Nurse License without further process.

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1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Board of Registered Nursing.
3 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
4 Registered Nursing may communicate directly with the Board regarding this stipulation and
5 surrender, without notice to or participation by Respondent. By signing the stipulation,
6 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
7 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
8 this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be
9 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
10 between the parties, and the Board shall not be disqualified from further action by having
11 considered this matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
13 License and Order, including facsimile signatures thereto, shall have the same force and effect as
14 the originals.

15 12. This Stipulated Surrender of License and Order is intended by the parties to be an
16 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
17 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
18 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
19 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
20 executed by an authorized representative of each of the parties.

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following Order:

23 ORDER

24 IT IS HEREBY ORDERED that Registered Nurse License No. RN 556783, issued to
25 Respondent Pamila Ann Bird a.k.a. Pamila Ann Wright Bird, is surrendered and accepted by the
26 Board of Registered Nursing.

27 1. The surrender of Respondent's Registered Nurse License and the acceptance of the
28 surrendered license by the Board shall constitute the imposition of discipline against Respondent.

1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the Board of Registered Nursing.

3 2. Respondent shall lose all rights and privileges as a Registered Nurse in California as
4 of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
6 issued, her wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
9 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
10 effect at the time the petition is filed, and all of the charges and allegations contained in
11 Accusation No. 2012-332 shall be deemed to be true, correct and admitted by Respondent when
12 the Board determines whether to grant or deny the petition.

13 5. If and when Respondent's license is reinstated, she shall pay to the Board costs
14 associated with its investigation and enforcement pursuant to Business and Professions Code
15 section 125.3 in the amount of \$2,365.00. Respondent shall be permitted to pay these costs in a
16 payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the
17 Board from reducing the amount of cost recovery upon reinstatement of the license.

18 6. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation, No. 2012-332 shall be
21 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
22 Issues or any other proceeding seeking to deny or restrict licensure.

23 7. Respondent shall not apply for licensure or petition for reinstatement for two (2)
24 years from the effective date of the Board of Registered Nursing's Decision and Order.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

August 15, 2012 Pamela Ann Bird

PAMILA ANN BIRD A.K.A. PAMILA ANN
WRIGHT BIRD
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs

Dated:

August 15, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

Kim M. Settles

KIM M. SETTLES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-332

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 KIM M. SETTLES
Deputy Attorney General
4 State Bar No. 116945
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-332

13 **PAMILA ANN BIRD A.K.A. PAMILA**
14 **ANN WRIGHT BIRD**
11357 Desert Trailways Lane
Blythe, CA 92225
Registered Nurse License No. 556783

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about July 14, 1999, the Board of Registered Nursing issued Registered Nurse
23 License Number 556783 to Pamila Ann Bird a.k.a. Pamila Ann Wright Bird (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 in this accusation and will expire on July 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 118, subdivision (b) of the Code provides that the expiration of a license does not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions:

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
4 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
5 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
6 himself or herself, any other person, or the public or to the extent that such use impairs his or her
7 ability to conduct with safety to the public the practice authorized by his or her license.

8 9. Section 2770.11 of the Code states:

9 "(a) Each registered nurse who requests participation in a diversion program shall agree to
10 cooperate with the rehabilitation program designed by the committee and approved by the
11 program manager. Any failure to comply with the provisions of a rehabilitation program may
12 result in termination of the registered nurse's participation in a program. The name and license
13 number of a registered nurse who is terminated for any reason, other than successful completion,
14 shall be reported to the board's enforcement program.

15 "(b) If the program manager determines that a registered nurse, who is denied admission
16 into the program or terminated from the program, presents a threat to the public or his or her own
17 health and safety, the program manager shall report the name and license number, along with a
18 copy of all diversion records for that registered nurse, to the board's enforcement program. The
19 board may use any of the records it receives under this subdivision in any disciplinary
20 proceeding.

21 COST RECOVERY

22 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

26 DRUGS

27 11. "Xanax" (brand name "Alprazolam") is a benzodiazepam derivative used to treat
28 anxiety attacks and panic disorder. It is a Schedule IV controlled substance pursuant to Health

1 and Safety Code section 11057, subdivision (d)(1) and a dangerous drug pursuant to Business and
2 Professions Code section 4022.

3 12. "Oxycodone" is an opiate analgesic used to treat moderate to severe pain. It is a
4 Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision
5 (b)(1)(N) and a dangerous drug pursuant to Business and Professions Code section 4022

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct – Use of Controlled Substance)**

8 13. Respondent has subjected her license to disciplinary action under section 2761,
9 subdivision (a) on the grounds of unprofessional conduct, as defined in section 2762, subdivision
10 (b), in that while enrolled in the Board's Diversion Program, Respondent relapsed and used
11 controlled substances as follows:

- 12 a. On September 5 and 25, 2008, Respondent tested positive for Benzodiazepines.
13 b. On September 17, 2008, Respondent tested positive for Oxycodone.
14 c. On September 25, 2009, Respondent tested positive for Opiates.
15 d. On December 17, 2009, Respondent admitted to self-administering two tablets of
16 Xanax:

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct – Obtain Controlled Substance)**

19 14. Respondent has subjected her license to disciplinary action under section 2761,
20 subdivision (a) on the grounds of unprofessional conduct, as defined in section 2762, subdivision
21 (a) in that she unlawfully obtained and/or possessed controlled substances as set forth in
22 paragraph 13, above.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Rehabilitation Program)**

25 15. Respondent has subjected her license to disciplinary action under Code section
26 2770.11 in that she was deemed a "public safety risk" and terminated from the Board's
27 Rehabilitation Program on December 18, 2009. Respondent failed to comply with the
28 Rehabilitation Program as follows:

- 1 a. On September 5 and 25, 2008, Respondent tested positive for Benzodiazepines.
2 b. On September 17, 2008, Respondent tested positive for Oxycodone.
3 c. On September 25, 2009, Respondent tested positive for Opiates.
4 d. On December 17, 2009, Respondent admitted to self-administering two tablets of
5 Xanax.
6 e. Respondent failed to "call in" for random drug testing on February 15, 2009, March
7 28, 2009, April 23, 2009, May 22, 2009, July 10, 2009, October 25, 2009, and December 15,
8 2009.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
11 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 556783, issued to Pamila
13 Ann Bird a.k.a. Pamila Ann Wright Bird;
14 2. Ordering Pamila Ann Bird to pay the Board of Registered Nursing the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 125.3;
17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: December 1, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.E.D., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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